IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CIVIL ACTION NO. 3:10-CV-109-FDW-DCK

RAYMOND JOHNSON,)	
Plaintiff,)	
v.)	<u>ORDER</u>
HENDRICK AUTOMOTIVE GROUP,)	
and HENDRICK HONDA)	
Defendants.)	

THIS MATTER IS BEFORE THE COURT on "Defendants' Motion To Quash The Second Deposition Notice Of Brian Freedman" (Document No. 64) filed January 13, 2011. To date, Plaintiff has not filed a response to the pending motion, which addresses a deposition to be held tomorrow, January 19, 2011 at 10:30 a.m. in Gastonia, North Carolina. This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b), and recognizing the imminent deadline addressed by the motion, immediate review of this motion is appropriate. Having fully considered the motion and the record, the undersigned will grant the motion.

Defendants make three main arguments in support of their motion: (1) Brian Freedman ("Freedman") has not been subpoenaed pursuant to Fed.R.Civ.P. 45 to attend a deposition; (2) Freedman is not a proper deponent as he is not a party to this action and has acted as Defendants' counsel in Plaintiff's workers' compensation claim; and (3) pursuant to Fed.R.Civ.P. 45 (3)(A)(ii) Freedman cannot be required to travel more than 100 miles from where he resides, is employed, or regularly transacts business in person. (Document No. 65).

The grounds for Defendants' motion appear sound, and Plaintiff has thus far failed to present any argument or applicable authority to persuade the undersigned that Defendants' opposition is misplaced.

IT IS, THEREFORE, ORDERED that "Defendants' Motion To Quash The Second Deposition Notice Of Brian Freedman" (Document No. 64) is **GRANTED**.

Signed: January 18, 2011

David C. Keesler

United States Magistrate Judge